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To: <ADMcomment@courts.mi.gov>
Date: 4/24/2015 9:02 PM
Subject: ADM File No. 2013-38

Dear Justices:

I strongly support proposed revision A.

I write from the following perspective: I was admitted to practice in 1973 and spent a majority, although not all, of the past 42 years of practice in the family law area. From 1986 - 2001, I was a family law mediator and facilitator. I have also lectured in the family law area for the Family Law Section and the Macomb County Bar Association. Further, since 1977, I have been continuously involved in the Grievance/Disciplinary system in the state, as investigator, special counsel, hearing panelist and hearing panel chairperson.

From a public policy point of view, the "value-added/results obtained" approach to retention of counsel is encourages not only more litigation but more overly-zealous and "scorched-earth" litigation in an area of law where the public increasingly needs more compromise, more understanding, and more collaboration. Conversely, it needs less aggressive advocacy, less stress on maximizing recovery, and less stress on adversarial tactics.

My thoughts on this are focused primarily on property settlement. The problem with the current approach is not only that clients have no idea of the actual fees they are incurring when they retain "value-added/results obtained" lawyers, but that the actual hours spent working the case will be even higher as the lawyer works the file to obtain maximize the result.

We should never lose sight of who these litigants are - people who once committed to living their lives together. The assets in the litigation are shared. This is quite unlike contract, personal injury or corporate litigation in this respect, where the parties' interests were in conflict right from the start.

As to proposed revision B, first, I believe any "value-added/results obtained" approach is prima facie unreasonable. Second, practically speaking, there is no way spouses seeking lawyers in an emotional time in their lives would generally be positioned to independently negotiate and reach an agreement as to what is "reasonable" on this subject. Certainly, the case-by-case approach to complaints (assuming the clients have the understanding and motivation to grieve) will add a new burden to the grievance system going forward.

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